

MINUTES OF THE SOLID WASTE MANAGEMENT BOARD MEETING  
Indiana Government Center South  
402 West Washington Street  
Conference Center Room A – 1:30 p.m.  
Indianapolis, Indiana  
March 18, 2008

The meeting was called to order by Mayor William Graham, Chairperson, at 1:34 p.m. Those present for all or part of the meeting were:

Mr. Tom Barnett  
Mr. Michael Carnahan  
Mr. Rick Dyar  
Mr. Chuck Himes  
Mr. Jason Ward  
Dr. Stephen Wintermeyer  
Mr. Howard Cundiff (Proxy, State Department of Health)  
Mr. David Phippen (Proxy, Lieutenant Governor's Office)  
Mr. Tom Hohman (Proxy, Department of Natural Resources)  
Ms. Pam Fisher (Proxy, Indiana Economic Development Corporation)  
Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following Indiana Department of Environmental Management (IDEM) staff members were present for all or part of the meeting:

Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality  
Mr. Mike Dalton, Chief, Rules, Planning and Outreach Section  
Mr. Steve Mojonier, Rules, Planning and Outreach Section  
Ms. Lynn West, Rules, Planning and Outreach Section  
Ms. Kiran Verma, Rules, Planning and Outreach Section  
Ms. Lydia Kuykendal, Rules, Planning and Outreach Section  
Ms. Marjorie Samuel, Rules, Planning and Outreach Section  
Ms. Janet Pittman, Rules, Planning and Outreach Section  
Ms. Ann Long, Office of General Counsel  
Mr. Ryan Groves, State Cleanup Section

Mayor Graham welcomed Mr. David Phippen, serving as a proxy for the Lieutenant Governor's Office.

1. Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of January 15, 2008, and requested that all appearance cards be submitted. There being no corrections or additions, Mayor Graham asked for a motion to approve the minutes. Mr. Howard Cundiff so moved and Mr. Chuck Himes seconded. The motion passed unanimously. APPROVAL OF MINUTES
2. Mayor Graham asked Mr. Bruce Palin, Assistant Commissioner, to address the Board. Mr. Palin discussed the virtual file cabinet project, which is the conversion of paper files into electronic documents. The virtual file cabinet provides the public with access from any computer with internet access to view Office of Land Quality documents that have been scanned into the virtual file cabinet. Mr. Palin said that while the project is not yet complete, a significant amount of materials have been scanned by teams comprised of the Office of Land Quality staff. The projected completion of the entire project is June 2009. Mr. Palin referred to the hand-out, noting that the number of public IDEM REPORTS

records requests has decreased as the number of documents scanned into the virtual file cabinet has increased. He then asked Ms. Lynn West to present an update on the rules.

Ms. West distributed the Rulemaking Projects list and noted that no new rules had been added. However, she said that there were several rules pending with the Office of Land Quality rulewriters, including herself, which would soon be added to the list.

Ms. West discussed the Board training meeting, scheduled for May 20, 2008. She distributed the final agenda with maps for locating the various stops for the day and encouraged all Board members to attend the training sessions and meeting. She said that tours of a medical waste facility in Elkhart, Indiana, and the Prairie View Landfill have been arranged. She also noted the attached menu for the Hilltop Restaurant in Lakeville, Indiana. The Board meeting would be at 1:30 p.m., at the Lakeville Branch Library, Lakeville, Indiana.

3. Mayor Graham announced the following rulemaking actions:

- a. Final Adoption of LSA #06-147, the addition of new rules under 329 IAC 7.1, concerning a Priority Ranking System for Hazardous Substances Response Sites Rule. The proposed rule was published in the Indiana Register on January 9, 2008, at DIN: 20080109-IR-329060147PRA. This hearing was noticed in the Indiana Register on January 9, 2008 at DIN: 20080109-IR-329060147PHA.
- b. Preliminary Adoption of LSA #07-468, new rules and amendments to rules at 329 IAC 9, the Delivery Prohibition Requirement Mandated by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 Rule. The draft rule was published in the Indiana Register on December 12, 2007, at DIN: 20071212-IR-329070468SNA. This hearing was noticed in the Indiana Register on December 12, 2007, at DIN: 20071212-IR-329070468PHA.

Mayor Graham said that the stated rules were included in the Board packet for this meeting and are available for public inspection in the file room of IDEM, located on the 12<sup>th</sup> floor of the Indiana Government Center North, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. Instructions were given to the public regarding offering oral statements and comments to the Board. He said that all comment cards should have been submitted. The court reporter was affirmed.

4. Mayor Graham announced the public hearing to consider final adoption of LSA #06-147, new rules at 329 IAC 7.1, the Priority Ranking System for Hazardous Substances Response Sites, also known as the Scoring Model Change Rule. He introduced Exhibit A, the proposed rule, and Exhibit A-1, IDEM's suggested changes, into the record and asked Ms. West to address the Board.

FINAL ADOPTION  
NEW RULES AT 329 IAC 7.1  
PRIORITY RANKING SYSTEM  
FOR HAZARDOUS SUBSTANCES  
RESPONSE SITES RULE

Ms. West reviewed the history of the rulemaking process, noting that at the September 2007 Board Meeting, Ryan Groves, State Cleanup Program, Office of Land Quality, gave a presentation of the problems, cleanup methods and IDEM's approach to this work. Ms. West stated that this rule would repeal the current rule at 329 IAC 7 and establish the new rule at 329 IAC 7.1 that would include clear procedures and criteria for determining the commissioner's priorities in ranking hazardous substances response sites. These criteria to rank a site as high, medium or low, would be consistent with other site ranking programs that IDEM manages, i.e. leaking underground storage tank remediations. There would be a transition time of 180 days for the department to reprioritize sites/releases consistent with this new rule. The new rule

would allow IDEM to increase staff time and resources for hazardous substances response sites that create the most serious threats to human health and the environment. Upon completion of the remediation, a “no further action” letter would be provided to the owner/operator and the site/release would no longer have a priority ranking. Ms. West then read IDEM’s suggested changes contained in Exhibit A-1 into the record. Ms. West said that no public comments had been received on this rulemaking; nor was there an economic impact. She stated that technical staff were available to answer any questions. Ms. West concluded by stating that IDEM recommended that Board adopt Exhibit A-1, IDEM’s suggested changes, and then final adopt the rule, as amended. For a verbatim account of Ms. West’s presentation, please see pages 14 through 16 of the official transcript of this meeting.

Mayor Graham asked for questions from the Board. Mr. Tom Barnett raised several technical questions regarding the prioritization methodology and the determination of background concentrations. Mr. Barnett explained that he had not been present for the September 18, 2007, Scoring Model Presentation by Mr. Groves, nor for the preliminary adoption hearing on November 20, 2007. Mr. Ryan Groves, State Cleanup Section, responded to Mr. Barnett’s questions. Mr. Groves stated that IDEM typically looked at USGS numbers for background concentrations from their data or EPA data in order to make determinations on remediation and whether it is a concern as opposed to a background or residual concentration. Mr. Barnett also inquired as to how many sites in the state were currently listed, to which Mr. Groves answered approximately 1,100 in the State Cleanup Section that are not covered by the National Priorities List or the leaking underground storage tanks. Mr. Groves also discussed the different types of sites with Mr. Barnett and how various sites are dealt with when they are in the program. Ms. Ann Long, Office of Legal Counsel, also added, “...that a site to be prioritized first has to be defined as a Hazardous Substance Response Site, and that definition goes back to the location of release”. “Release” is defined under the statute. Therefore, a site has to be “accepted, in a sense, by an IDEM program before it goes into this priority mode.” Please see pages 16 through 23 of the official transcript of this meeting for a verbatim account of this discussion.

Mayor Graham asked if there were any other questions from the Board. There were none. Mayor Graham then asked for public comment. There were no speaker cards and no public comments; therefore, the hearing was concluded.

Since there were no further questions or comments, Mayor Graham asked for a motion to final adopt Exhibit A-1, IDEM’s suggested changes to the proposed rule. Mr. Thomas Hohman so moved and Mr. Rick Dyar seconded. The motion passed. Then Mayor Graham asked for a motion to adopt the rule, as amended. Mr. Howard Cundiff so moved and Dr. Wintermeyer seconded. The motion passed.

- |  |   |
|--|---|
| 5. Mayor Graham announced the public hearing to consider preliminary adoption of LSA #07-468, new rules and amendments to 329 IAC 9, the Delivery Prohibition Requirements Mandated by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005. He introduced Exhibit B, the draft rule into the record of the hearing and asked Ms. West to address the Board. | PRELIMINARY ADOPTION<br>NEW RULES AND AMENDMENTS<br>AT 329 IAC 9, DELIVERY<br>PROHIBITION REQUIREMENTS<br>MANDATED BY THE<br>UNDERGROUND STORAGE TANK<br>COMPLIANCE ACT |
|--|---|

Ms. West explained that the Department believes it currently has the authority to implement the fuel delivery prohibition program (red-tagging). The rule would provide clear, concise standards as well as follow the Federal law requirements. The delivery prohibition requirements forbid the delivery, deposit, or acceptance of product to an underground storage

tank that is declared ineligible for delivery. This rulemaking would assist in determining eligibility and provide procedures for notification, attaching and also removing the red tag.

Ms. West informed the Board that this rule has no fiscal impact and no public comments were received. She concluded by encouraging preliminary adoption of the rule as presented. For a verbatim account of Ms. West's remarks, please see pages 28 and 29 of the official transcript of this meeting.

Major Graham asked for questions from the board. There were none. Mayor Graham then asked for public comment, noting that there were no comment cards on the subject. There being none, Mayor Graham declared the hearing concluded. Mayor Graham asked for a motion to preliminarily adopt the rule as presented. Mr. Carnahan so moved and Mr. Ward seconded. The motion passed.

6. Mayor Graham announced that the Board was interested in hearing                      OPEN FORUM  
from the public on topics of interest and potential rulemakings  
on Title 329.

Mayor Graham opened the floor to commenter Mr. Delbert F. Vincent, representing Delstars Enterprises, who wished to revisit the solid waste processing rule.

Mr. Vincent stated that his family's salvage operation has been in business since the early 1950's and that it had recently been classified as a solid waste processing facility. They are currently in discussions with IDEM about the classification. He wanted clarification as to what constitutes a solid waste processing facility because he said that their main goal is recycling. He explained that they recycle autos, semi-trucks, semi trailers, but the issue is house trailers (also referred to as "mobile homes"). He described the breakdown and recycling of the house trailer materials of metal, appliances, windows and lumber. He stated that the IDEM inspector and the rule interpretation classified their operation as a solid waste processing facility because of the breakdown of the mobile homes. His company's belief is that they were recycling and should not be classified as a solid waste processing facility. This would place an excessive burden on them. He informed the Board that he was there to learn how the system works and to answer any questions of the Board members.

Mayor Graham opened up questioning by the Board. Mr. Himes asked Mr. Vincent how long they had been recycling at that site. Mr. Vincent stated that his father (also present at the meeting) had been operating the business since 1954, and recently he (son) had taken over the operation.

Mr. Himes asked for clarification of their operation. Mr. Vincent discussed in detail the variety of dismantling and recycling activities. He responded to Mr. Barnett's question about what he felt would be the financial burden of the solid waste processing facility classification. Mr. Vincent also said that there was a problem with the county zoning ordinance because of additional building requirements as a result of the classification.

At this point, Mr. Palin interjected that the problem is about more than materials—the trailers are considered a solid waste and the company is processing, which comes under the resource recovery portion of the solid waste processing classification. Mr. Palin also stated that auto salvage is exempted. Mr. Vincent was asked if he had assistance in interpreting the rule, to which he answered that they have consulted an attorney and said it was up to the interpretation of the rule.

Mr. Vincent and various members of the Board continued a discussion about the size of Mr. Vincent's facility and what materials are brought in. Mr. Vincent described the area as hilly, with a total of approximately 40 to 45 acres belonging to his father, and 5 acres belonging to him where the processing is done. He also described in more detail the recycling activities, and the dismantling of mobile homes. Mr. Vincent said that they try to reuse everything possible and otherwise "...what we can't we send to the landfill."

Mr. Himes asked Mr. Vincent if there were any other mobile home demolition sites in Indiana. Mr. Vincent answered that they are the only ones doing this type of stripping. Further discussion continued about the details of Mr. Vincent's operation. Finally, in response to Mayor Graham's question, Mr. Vincent said that he wanted to have the rule rewritten to include a general exclusion or to promote recycling.

Mayor Graham then recognized Mr. Delbert Vincent Sr. Mr. Vincent Sr. clarified a statement made earlier regarding the stripping of trailers. He said that some people who are stripping trailers take what's left to the landfill, but some are not. Mr. Vincent Sr. stated, "...they're not all getting to the landfill. Some of them are ... being burnt after they strip the metal."

Chairman Graham asked staff if they had an answer to Mr. Vincent's question. Mr. Palin replied that this was a topic that IDEM has discussed over time. He felt that recycling is always encouraged but also has to be managed to protect the environment. Every case is different, and IDEM was open to consideration and any suggestions by the Board.

Mayor Graham commented that he was concerned about Mr. Vincent's predicament, one being the nonconforming zoning issue; however it may be possible to look at how manufactured homes are recycled. Mr. Cundiff commented about mulch vs. compost, which could be explored. The request for a letter of support from IDEM was viewed as out of the purview of the Board. Finally, Mr. Carnahan commented on the "housekeeping" issues, and the disarray of the site as viewed in pictures previously viewed by the Board. Mayor Graham concluded the discussion by assuring Mr. Vincent Sr. that the Board will ask staff to look into the requests. Please see pages 31 through 54 of the official transcript for a verbatim report of the Open Forum discussion.

7. Mayor Graham adjourned the meeting at 2:35 p.m.

ADJOURNMENT

The next meeting will be held May 20, 2008, at 1:30 p.m. at the Lakeville Branch of the St. Joseph Public Library in Lakeville, Indiana.

---

---